

DSC Charity Law Conference

Employment Law Update 2016

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Topics to be covered

- Whistleblowing.
- Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE Regulations”).
- Working Time Regulations 1998 and recent cases.
- ACAS Early Conciliation (EC).
- Tribunal Fees.
- Recent employment changes.
- Future employment changes - 2016 and beyond.

Whistleblowing

- What is a qualifying and protected disclosure?
- Public interest requirement.
 - *Chesterton Global Ltd (t/a Chestertons) and another v Nurmohamed UKEAT/0335/14.*
- Confidentiality and whistleblowing.
- Extension to definition of “worker”.
- BIS publication: “Whistleblowing: Guidance for Employers and Code of Practice”.
- Future reform: prescribed reporting duty and financial services sector.

TUPE Regulations – Recap

- When does TUPE apply?
- Automatic transfer principle.
- Changing terms of employment.
- Protection against dismissal.
- Obligations to inform and consult.
- Employee Liability Information.

TUPE Regulations

- 2014 changes:
 - Service provision changes and activities being “fundamentally or essentially the same”.
 - Employee Liability Information.
 - Transferees ability to make positive changes to collective agreements.
 - Change in location included to ETO reason.
 - Pre transfer collective consultation permitted under TULR(C)A.
 - Micro businesses can inform and consult affected employees directly.

TUPE – Cases of Interest

Service Provision Changes

- *Eddie Stobart Ltd v Moreman and others [2012] IRLR 356.*
- *Rynda UK Limited v Rhijnsburger [2015] EWCA Civ 7 (Court of Appeal).*
- *Ottimo Property Services Ltd v Duncan and another [2015] UKEAT 0321/14).*

Working Time Regulations

Holiday pay calculation

- *Lock v British Gas Trading Ltd and ors* [2014]
- *Bear Scotland Ltd v Fulton and anor*
UKEATS/0047/13.

Working Time and NMW

- *Federacion de Servicios Privados del sindicato Comisiones Obreras v Tyco Integrated Security SL and another* (c-266/14)

ACAS Early Conciliation

- Mandatory since 6 May 2014.
- Relevant and exempt proceedings.
- EC Procedure.
- EC Certificate.
- Extension of time limits.

Tribunal fees

- Fees introduced into Employment Tribunals on 29 July 2013 by way of the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013.
- Type A and type B claims.
- Issue fee.
- Hearing fee.
- Consequences of non-payment.

Other recent changes

- National Living Wage.
- Gender Pay Reporting.
- Exclusivity clauses in zero hours contracts.

Future changes - 2016 and beyond.....

- 23 June 2016: UK referendum on EU membership.
- *Lock v British Gas*, Court of Appeal.
- Grandparent leave.
- Tax-free childcare scheme.

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